

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of)

Petition for Rulemaking)
to Establish a Dedicated 8XX Code)
for Toll-Free Calls Placed)
from Pay Telephones)

RM-9273

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

To: The Commission

**COMMENTS IN SUPPORT OF
PETITION FOR RULEMAKING**

PageMart Wireless, Inc. ("PageMart"), by its attorneys, and pursuant to Section 1.405 of the Rules of the Federal Communications Commission (the "FCC" or "Commission"),^{1/} hereby submits these comments in support of the above-captioned Petition for Rulemaking ("Rulemaking Petition") filed by AirTouch Paging ("AirTouch"). In the Rulemaking Petition, AirTouch urges the Commission to establish a dedicated 8XX code for toll-free and operator-access calls ("toll-free calls") placed from payphones ("AirTouch Proposal").^{2/}

I. Introduction

PageMart is a paging company that provides innovative, low-cost, nationwide services. Through contracts with various interexchange carriers ("IXCs"),

^{1/} 47 C.F.R. § 1.405 (1997).

^{2/} See Public Notice (83235), Report No. 2274 (May 6, 1998).

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PageMart obtains toll-free numbers and provides these numbers to its subscribers, who can then be paged without the calling party incurring a long distance toll charge. Because PageMart provides these services, it would be directly affected by the Commission's actions regarding implementation of the AirTouch Proposal.

The Commission's existing rules provide that IXC's must compensate payphone service providers ("PSPs") for toll-free calls placed from payphones.^{3/} In most instances, these charges will ultimately be passed on to consumers who subscribe to toll-free numbers. Under the AirTouch Proposal, IXC's would continue to compensate PSPs for payphone calls to traditional toll-free numbers, while a payphone user dialing a dedicated 8XX number would be required to pay the PSP's local coin rate directly.^{4/} Those toll-free subscribers wishing to block payphone calls in order to avoid payphone usage charges could retain their old toll-free numbers, block calls to those numbers, and get a dedicated 8XX number, with respect to which the subscriber's IXC would not be required to compensate PSPs for calls placed from payphones. Nonetheless, PSPs would be fully compensated by the coin deposited by the caller making the 8XX call. Additionally, payphone users dialing dedicated 8XX numbers would continue to avoid long distance toll charges.

^{3/} See Implementation of the Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996, CC Docket No. 96-128, Report and Order, 11 FCC Rcd 20,541 (1996); Implementation of the Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996, CC Docket No. 96-128, Order on Reconsideration, 11 FCC Rcd 21,233 (1996); Second Report and Order, FCC 97-371 (Oct. 9, 1997).

^{4/} See Petition for Rulemaking to Establish a Dedicated 8XX Code for Toll-Free Calls Placed from Pay Telephones, RM No. 9273, filed April 17, 1998 ("AirTouch Petition") at 4.

II. Adoption of the AirTouch Petition Would Benefit Payphone Users, Toll-Free Number Subscribers, Telecommunications Carriers and Payphone Service Providers

PageMart strongly supports the AirTouch Proposal. As demonstrated by AirTouch, a wide range of groups would benefit from implementation of the AirTouch Proposal, including payphone users, toll-free number subscribers, PSPs, and telecommunications carriers.^{5/} Accordingly, the Commission should grant the Rulemaking Petition to facilitate further fact-finding and the promulgation of new rules for the establishment of a dedicated 8XX code for calling-party-pays toll-free calls from payphones.

By supporting the implementation of an 8XX code, PageMart does not wish to preclude the possibility of the adoption of an alternative scheme to achieve the same objective. For example, the Commission could require IXC's to implement a mechanism that prompts each payphone caller calling a blocked toll-free number, and that allows the caller to place coins in the payphone to override the blocking. PageMart would fully support such an approach, as it would achieve the same objectives, and may even be more efficient than a dedicated 8XX code.^{6/}

A. Payphone Users

Payphone users would benefit from adoption of the AirTouch Proposal. First, payphone users would benefit from decreases in payphone charges for all calls, stemming from their exercise of their power to choose the lowest cost PSP to make

^{5/} See id. at 4.

^{6/} References to the implementation of a dedicated 8XX code or the AirTouch Proposal should be read to include such an alternative mechanism.

dedicated 8XX number calls.^{7/} PSPs would be forced to provide low-cost services and deploy competing facilities to capture dedicated 8XX number calling market-share, which could be substantial depending upon the overall demand for dedicated 8XX number subscriptions. This would lead to lower costs for payphone calls in general.

Further, payphone users would benefit from adoption of the AirTouch Proposal because fewer calls would be subject to call blocking, as the caller would have a choice with respect to reaching subscribers with blocked toll-free numbers. Under the present rules, many, if not most toll-free number subscribers will choose to block all toll-free calls placed from payphones because they are unwilling to pay the mandated payphone surcharges. Those subscribers are also concerned about paying for unimportant or fraudulent calls, and believe that the only way to avoid these charges is call blocking. Payphone users dialing toll-free number subscribers that elect to block calls from payphones will be unable to place calls regardless of the importance of that call to the would-be caller, and that caller's willingness to pay for the call. Under the AirTouch Proposal, payphone users will be able to complete important payphone calls for which they are willing to pay the payphone charge, and which they would otherwise be unable to make because of call blocking. Accordingly, payphone users would benefit greatly from increased call completions.

B. Toll-free Number Subscribers/Telecommunications Carriers

Toll-free number subscribers and their carriers would also benefit from implementation of the AirTouch Proposal because it would allow carriers to provide,

^{7/} See id. at 4, 6.

and each individual toll-free number subscriber to choose, the type of service that is most suitable to each subscriber's requirements.^{8/} The AirTouch Proposal would allow subscribers to obtain both traditional toll-free and dedicated 8XX numbers, and thereby allow callers, in at least some instances, to make the ultimate decision regarding whether to pay for payphone calls.

AirTouch states in its petition that, "[b]ased on its own experience . . . a large and significant number of toll-free subscribers . . . would welcome an alternative compensation system."^{9/} PageMart concurs. For example, the dedicated 8XX code is well suited to the business needs of paging customers who are unwilling to incur substantial variable costs associated with the varying number of paging calls placed from payphones during each billing period. Many paging companies cater to relatively low-end customers by offering inexpensive flat-rate services. Without the dedicated 8XX option, paging companies such as PageMart will be required to consider imposing variable charges on customers to recover the costs associated with paging calls made from payphones. Worse yet, paging companies will be required to consider blocking all traditional toll-free calls made from payphones, thereby reducing the quality of service for paging subscribers. Acceptance of the AirTouch Proposal would alleviate these problems and ensure that companies such as PageMart are able to provide high-quality services to subscribers.

The interests of toll-free number subscribers would also be advanced by the reduction of fraudulent calls placed from payphones. Under the present system,

^{8/} See id. at 6.

^{9/} See id. at 7.

fraudulent calls can be placed by crooked PSPs, thereby requiring carriers or toll-free number subscribers to compensate those PSPs for the fraudulent calls. The only way to prevent such calls is to block all calls from payphones, including desirable, important, and emergency calls. The availability of a dedicated 8XX code, or an alternative mechanism for callers to pay to complete calls to otherwise blocked numbers, would allow subscribers to eliminate the incentive for sham-PSPs to place fraudulent calls from payphones, while ensuring that subscribers receive important calls that might otherwise not be completed.

C. Payphone Service Providers

PSPs would certainly also benefit from promulgation of the rules proposed by AirTouch in several respects. First, competitive PSPs would be able to attract increased market-share by competing on the basis of price. Without a dedicated 8XX code that allows some callers to pay for certain toll-free calls from payphones, competitive PSPs would be unable to attract toll-free callers based on price. Congress explicitly mandated that the Commission's payphone compensation rules "promote competition among PSPs."^{10/} The AirTouch Proposal would more readily further that goal than does the present scheme.

Second, PSPs would benefit from the revenues associated with dedicated 8XX number calls that would otherwise not be made or completed due to call blocking. Call blocking severely harms PSPs by significantly reducing the number of payphone calls being made during any given period. Under the AirTouch Proposal, however, payphone users would be able to make calls that would otherwise

^{10/} 47 U.S.C.A. § 276(b)(1) (West Supp. 1998).

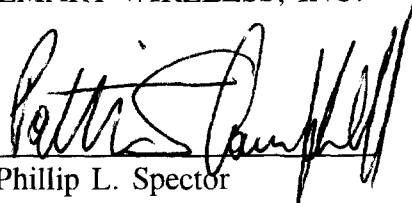
be blocked, thereby providing an additional revenue stream for PSPs. At the same time, PSPs would continue to receive compensation from IXC's for calls placed to unblocked toll-free numbers.

III. Conclusion

For the foregoing reasons, PageMart vigorously supports the Rulemaking Petition filed by AirTouch and respectfully requests that the Commission immediately initiate a proceeding to make available a dedicated 8XX code, a range of numbers within a dedicated 8XX code, or an alternative mechanism to allow a caller to pay to complete payphone calls in situations where a call would otherwise be blocked. Through one of these mechanisms, the Commission should provide an alternative per-call compensation system for payphone toll-free calls.

Respectfully submitted,

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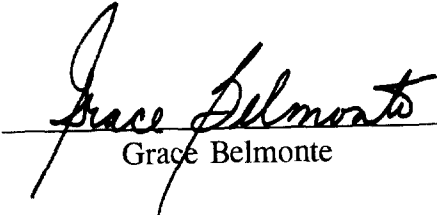
Date: June 5, 1998

Certificate of Service

I hereby certify that a copy of the foregoing Comments in Support of
Petition for Rulemaking Reply to was served by U.S. first-class mail, postage
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